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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | |
|-------------------|-----------------|----------------------|-------------------------|-------------------------|--|
| 10/633,075 | 08/01/2003 | Ken Gardner | PGARDK-S | 4241 | |
| 759 | 7590 10/05/2005 | | EXAMINER | | |
| Thompson E. I | Fehr | | BAXTER, GWENDOLYN WRENN | | |
| Suite 300 | | | | | |
| Goldenwest Cor | porate Center | | ART UNIT PAPER NUMBER | | |
| 5025 Adams Avenue | | | 3632 | | |
| Ogden, UT 84403 | | | DATE MAILED: 10/05/2009 | DATE MAILED: 10/05/2005 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

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|--|--|---|-------------|--|--|--|
| W C | Application No. | Applicant(s) | | | | |
| | 10/633,075 | GARDNER, KEN | | | | |
| Office Action Summary | Examiner | Art Unit | | | | |
| | Gwendolyn Baxter | 3632 | • | | | |
| The MAILING DATE of this communication app Period for Reply | pears on the cover sheet with the | correspondence ad | ldress | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING D. Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). | ATE OF THIS COMMUNICATIO 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE | N. mely filed n the mailing date of this α ED (35 U.S.C. § 133). | | | | |
| Status | | | | | | |
| 1) Responsive to communication(s) filed on 05 Ju | ılv 1944. | • | | | | |
| | action is non-final. | | | | | |
| 3) Since this application is in condition for allowar | | osecution as to the | e merits is | | | |
| | closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. | | | | | |
| Disposition of Claims | · | | | | | |
| 4)⊠ Claim(s) 2-47 is/are pending in the application. | | | | | | |
| 4a) Of the above claim(s) is/are withdrawn from consideration. | | | | | | |
| 5) Claim(s) 3-47 is/are allowed. | | | | | | |
| 6)⊠ Claim(s) <u>2</u> is/are rejected. | | | | | | |
| 7) Claim(s) is/are objected to. | | | | | | |
| 8) Claim(s) are subject to restriction and/o | 8) Claim(s) are subject to restriction and/or election requirement. | | | | | |
| Application Papers | | | | | | |
| 9) The specification is objected to by the Examine | r. | | | | | |
| 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. | | | | | | |
| Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). | | | | | | |
| Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). | | | | | | |
| 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. | | | | | | |
| Priority under 35 U.S.C. § 119 | | | | | | |
| 12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: | priority under 35 U.S.C. § 119(a |)-(d) or (f). | | | | |
| 1. Certified copies of the priority documents have been received. | | | | | | |
| 2. Certified copies of the priority documents have been received in Application No | | | | | | |
| 3. Copies of the certified copies of the priority documents have been received in this National Stage | | | | | | |
| application from the International Bureau (PCT Rule 17.2(a)). | | | | | | |
| * See the attached detailed Office action for a list of the certified copies not received. | | | | | | |
| | | | | | | |
| Attachment(s) | | | | | | |
| 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) | | | | | | |
| 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | Paper No(s)/Mail D 5) Notice of Informal F | |)-152) | | | |
| Paper No(s)/Mail Date | 6) Other: | | , | | | |

4.

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This is the second Office Action for application serial number 10/633,075, Support for Survey Rod, filed August 1, 2003.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,662,296 to Wu. The present invention reads on Wu as follows: Wu teaches a support comprising a grip (2), first leg (3), second leg (3), slidably mounting means (11), extending and retracting means (6), a mounting means (couplers found on the legs 3, respectively) for extending and retracting means and a releasable means (27) for fastening the extending and retracting means. The first leg is rotatably attached to the grip. The second leg is rotatably attached to the grip.

Response to Arguments

Applicant's arguments with respect to claim 2 have been considered but are moot in view of the new ground of rejection.

Allowable Subject Matter

Claims 3-47 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the collar having an aperture and a releasable fastener in combination with the other elements recited which is not found in the prior art of record. Alternatively, the prior art of record fails to teach the support in combination with the survey rod.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Boehm 3,70,130 teaches a support for a surveying instrument; Vargas 4,366,940 teaches a survey tripod and Kellenberger 5,400,516 teaches a holder and stand for surveyor's rod.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gwendolyn Baxter Primary Examiner Art Unit 3632

September 30, 2005